

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 8 July 2021

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Section 51

Under section 51 of the Freedom of Information Act 2000 (the "Act"), which is set out below, the Information Commissioner (the "Commissioner") has the power to serve a notice on a public authority requiring it to furnish her with any information she requires to enforce the requirements of the Act.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

she may serve the authority with a notice (in this Act referred to as "an information notice") requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

Application under section 50

1. The Commissioner has received an application under section 50, reference IC-69582-J3B0, for a decision whether a request for information made by the complainant to the Home Office on 21 September 2020 and added to on 24 September 2020, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. On 21 September 2020 the complainant made the following request for information under the Act:

"How many people are currently subject to the Home Office Desistance and Disengagement Programme?"

How many are on the programme because you consider them to hold extreme Islamic beliefs - 'Islamism'?"

How many are non British citizens?"

How many are male/female?"

3. On 24 September 2020, he requested further information:

"What is the age, in years and months, of the youngest person [who] is or was part of the programme?"

Were they identified as being a Muslim? What was their sex?"

4. The Home Office provided its response on 5 October 2020. It confirmed it holds information on the number of individuals currently subject to the programme, but refused to provide it, citing section 36(2)(c) (prejudice to effective conduct of public affairs) of the FOIA by virtue of section 36(4). It refused to provide the remaining requested information citing section 40(2) (personal information).
5. The complainant requested an internal review of that response on 5 October 2020. The Home Office sent him the outcome of its internal review on 10 November 2020, maintaining its original position.
6. The complainant contacted the Commissioner on 10 November 2020 to complain about the Home Office's handling of his request.
7. The Commissioner wrote to the Home Office on 1 December 2020, advising that the case was considered eligible for formal consideration under section 50 of the Act. The letter stated that a public authority is expected to use the time, between receiving such correspondence and being contacted by a case officer, to have thoroughly reviewed its handling of the request and to ensure that it is fully prepared and ready to provide its final, detailed submissions to the Commissioner.
8. The Commissioner next wrote to the Home Office on 15 June 2021, requesting to be provided with a copy of the withheld information, and asking initial questions about its application of one of the exemptions relied on. The Commissioner explained that this information was

required to assist her to tailor her questions to the Home Office during her investigation. She requested a response by 30 June 2021.

9. The Commissioner acknowledges, following that correspondence, the Home Office contacted her on 23 June 2021, 24 June 2021 and 5 July 2021 to discuss the status of the withheld information and the timescale for providing it. However, at the time of writing, it had failed to provide the information she requires to progress her investigation.

Information required

10. In view of the matters described above the Commissioner hereby gives notice that in the exercise of her powers under section 51 of the Act she requires that the Home Office shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:
 - the withheld information
 - a copy of the withheld information – that is the information held by the Home Office at the time of the request;
 - section 36 (prejudice to effective conduct of public affairs)
 - answers to all of the questions about section 36 in the Commissioner's letter of 15 June 2021, a copy of which is attached to this information notice;
 - section 40 (personal information)
 - clarification as to whose personal data the Home Office considers the requested information to be;
 - a full explanation as to how disclosing the information requested at parts (2) – (6) of the request could identify or assist in identifying individuals;
 - has the Home Office identified any legitimate interests in disclosure in this case?;
 - clarification as to why the Home Office concluded that disclosure is not necessary in this case and how else the legitimate interests could be met;
 - a description of the consequences of disclosure (if it would cause any unnecessary or unjustified damage or distress to the individual(s) concerned;

- the Home Office's conclusions as to the balance between the rights and freedoms of the data subject(s) in this case and the legitimate interests of the public in accessing this information.

Failure to comply

11. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act, and may be dealt with as a contempt of court.

Right of appeal

12. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@Justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

13. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

Signed

Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF